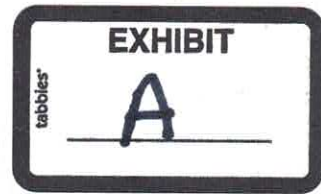


Subject: Re: Mii's Bridal
Date: Saturday, December 8, 2018 at 2:46:16 PM Central Standard Time
From: Jason Freeman
To: Smith, Curtis C. (TAX)
CC: Lindsey Boudreaux, Yepuri, Moha P. (TAX)
Attachments: image001.png, image002.png



Curtis,

First of all, I am frankly furious that you have accused someone in my office of "eavesdropping" in your motion. Your allegation is an outright false representation to the court, unbecoming of the Department of Justice or our profession. You and Moha are both aware of exactly what happened—we discussed this in depth, and the manner in which Ms. Ferguson stepped out of the deposition room with Moha and began talking about 5 feet away from (and directly in front of) my assistant who was sitting at her reception desk in the front of our office. She made no deliberate attempt to listen or "eavesdrop." Nor did I ever state this in writing or orally, as you represented to the court. The conversation was literally held right in front of her, as I previously informed you and Moha during our discussion on Thursday, and at normal speaking levels—there was not an opportunity for her to leave the room, or quite frankly, to *not* hear the short conversation. As you should know, there is no attorney-client privilege where there is no reasonable expectation of privacy during the conversation. I have lost all respect at this point, and have frankly never in my entire career seen an attorney make such an outright false statement to a court.

As a professional courtesy, I will give you the opportunity to fix the false statement.

Regarding Ms. Bonfield's deposition, yes, I am fine to conduct that as previously scheduled.

Jason

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Thank you.

From: "Smith, Curtis C. (TAX)" <Curtis.C.Smith@usdoj.gov>
Date: Friday, December 7, 2018 at 9:37 PM
To: Jason Freeman <Jason@freemanlaw-llc.com>
Cc: Lindsey Boudreaux <lboudreaux@freemanlaw-llc.com>, "Yepuri, Moha P. (TAX)" <Moha.P.Yepuri@usdoj.gov>
Subject: RE: Mii's Bridal

Jason,

Let me respond substantively to your email below.

As we previously informed you, we are producing the documents and information provided by the IRS as quickly as we can on a rolling basis (and we have tried to prioritize getting you the production from the employees' computers in the order that you wanted to depose them). If this creates difficulty for you in the current deposition schedule, or you feel that you may want to take supplemental depositions of witnesses already deposed, then please let us know and we can discuss revising the deposition schedule and/or scheduling order.

Specifically, with regard to Ms. Ferguson's testimony about her cell phone – we did instruct the IRS, including Ms. Ferguson, to preserve all relevant ESI (including texts). Ms. Ferguson apparently did not recall the messages on her phone until after you asked about them, or did not recall (or properly interpret) the instruction to preserve relevant ESI. We have asked Ms. Ferguson to produce them to us. We will review them for privilege, and if appropriate, turn them over. As we have not seen them, we cannot address your other questions about them at this time.

Finally, we have addressed your final paragraph (regarding your assistant's misinterpreted, or misheard, conversation between Ms. Ferguson and counsel for DOJ) both telephonically and in our motion for protective order. If you wish to discuss this further, please let me know. If there are any other issues to your below email that I have not adequately addressed, please let me know.

Otherwise, I wanted to follow up with you on Ms. Bonfield's deposition on the 12th. As I do not believe it is implicated by the Court's Order today, I am still fine with it going forward as discussed and I will get you a Notice of Deposition on Monday. If you are seeking to alter the date, time or location of that deposition in light of the Court's Dec. 19 hearing, please let me know.

Regards,

Curtis C. Smith
Trial Attorney, Tax Division
United States Department of Justice
717 N. Harwood, Suite 400
Dallas, Texas 75201

Phone: (214) 880-9734
Fax: (214) 880-9742
Email: Curtis.C.Smith@usdoj.gov

From: Jason Freeman <Jason@freemanlaw-llc.com>
Sent: Thursday, December 06, 2018 4:29 PM
To: Smith, Curtis C. (TAX) <Curtis.C.Smith@tax.USDOJ.gov>
Cc: Lindsey Boudreaux <lboudreaux@freemanlaw-llc.com>
Subject: Mii's Bridal

Curtis,

I've got some concerns about the government's discovery productions. We just received new documents (about 1,100 documents) yesterday that contain a substantial amount of information that would have been needed to conduct a full deposition of Patty Hall and Crystal Ferguson. Were these the documents that the government had previously lost—or are there still missing/deleted emails and documents? We have not completed our initial review yet, but I see quite clearly that this seizure went up to National and that they pulled the plug on the entire perishable goods seizure on March 2, 2015, yet it subsequently went forward. I don't believe that's consistent with Crystal Ferguson's testimony, but it is also something I would have wanted to explore in more depth with her and that we were never notified of. There are also references to missing ICS Histories and filling in ICS Histories after the fact, which appears to confirm the issue I raised about my suspicions of missing or manufactured ICS History entries.

We also learned in Crystal's deposition that she had been using her personal, non-government issued phone to text about the case and that she sent information related to a then-non-public case (Mii's) to others in the IRS that were not authorized to receive such information about a taxpayer (i.e., protected information). Does your office intend to investigate these improprieties? I believe that we have a right to know this. I understand that DOJ will likely be reluctant to take any steps to initiate a criminal investigation if it would harm an important government witness, but these appear to be pretty serious violations.

This is also particularly concerning because Crystal testified that she had not taken any steps to safeguard her text messages, and that she had not ever been asked to produce them. As you know, I have specifically requested all text messages in our discovery requests. Please update me on this and on what steps are being taken—and have been taken—to secure such text messages from all relevant persons. I am very concerned about this – the combination of this information going missing and the internal IRS emails that were previously considered missing leads me to seriously question whether all of the relevant documents have been produced.

Finally, I have one other very serious concern. During Ms. Ferguson's deposition, she stepped out of the room with her DOJ attorney. They were in the same room as my assistant and did not leave that room, and Ms. Ferguson intimated to her attorney that she had not told the truth in her deposition. If the government is aware of any false testimony whatsoever—or testimony that was not fully forthcoming, as is required under the oath that she took—I believe that it has an obligation to inform me and to take steps to correct that. Would you please advise on this?

Thanks,

Jason



Jason B. Freeman, JD, CPA
Managing Member

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